

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

GERALD W. MARSHALL,)	3:07-CV-0222-RAM
)	
Plaintiff,)	MINUTES OF THE COURT
)	
vs.)	DATED: AUGUST 31, 2010
)	
BRUCE KIRBY,)	
)	
Defendant(s).)	
_____)	

PRESENT: HONORABLE ROBERT A. McQUAID, JR., U.S. MAGISTRATE JUDGE

Deputy Clerk: Jennifer Cotter Reporter: Kathy French

Counsel for Plaintiff: James Andre Boles, Esq.

Counsel for Defendant(s): Jack Campbell, Esq.

PROCEEDINGS: JURY TRIAL - DAY 2

8:31 a.m. - Court reconvenes outside the presence of the jury. The Court and Counsel confer as to Plaintiff's offer of substitution for Plaintiff's Exhibit 6 and additional Plaintiff's Exhibit 11, an audio recording of a dispatch tape.

8:37 a.m. - Jurors are returned to the courtroom. **Gerald Marshall**, previously sworn, resumes testimony on direct examination by Mr. Boles; Plaintiff's Exhibit 8 is admitted; cross-examination by Mr. Campbell; redirect examination by Mr. Boles; rescross-examination by Mr. Campbell; witness is excused.

10:00 a.m. - Jurors are admonished and excused. Court stands at recess.

10:22 a.m. - Court reconvenes in the presence of the jury.

Mike Guider, called on behalf of the plaintiff, is sworn and testifies under direct examination by Mr. Boles; cross-examination by Mr. Campbell; redirect examination by Mr. Boles; recross-examination by Mr. Campbell; witness is excused.

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Walt Frazier, called on behalf of the plaintiff, is sworn and testifies under direct examination by Mr. Boles; cross-examination by Mr. Campbell; redirect examination by Mr. Boles; witness is excused.

Bruce Kirby, called on behalf of the plaintiff, is sworn and testifies under direct examination by Mr. Boles.

12:00 p.m. Jurors are admonished and excused. Court stands at recess.

1:30 p.m. Court reconvenes in the presence of the jury. **Bruce Kirby** resumes testimony under direct examination by Mr. Boles; cross-examination by Mr. Campbell; redirect examination by Mr. Boles; Defendant's Exhibit 10 is admitted.

3:10 p.m. Jurors are admonished and excused. Court stands at recess.

3:30 p.m. Court reconvenes outside the presence of the jury. Mr. Boles moves for a mistrial based on earlier comments by the Court. IT IS ORDERED that said motion is DENIED.

Jurors are returned to the courtroom.

Bruce Kirby resumes testimony under redirect examination by Mr. Boles; recross-examination by Mr. Campbell; redirect examination by Mr. Boles; witness is excused.

Kimberly Coleman, called on behalf of the plaintiff, is sworn and testifies under direct examination by Mr. Boles; cross-examination by Mr. Campbell; redirect examination by Mr. Boles; witness is excused.

Plaintiff rests.

4:05 Jurors are admonished and excused. Counsel and the Court convene outside the presence of the jury. Defendant moves for a directed verdict in favor of Defendant and Counsel present argument as to their respective positions regarding said motion. The Court sets forth its findings on the record. IT IS ORDERED that the Motion for a Directed Verdict is DENIED.

The Court further addresses the Motion In Limine to Allow Admission of Dispatch Tapes (Docket #71) submitted by Plaintiff. The Court sets forth its findings on the record. IT IS ORDERED that said motion is DENIED.

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4:34 p.m. Court adjourns.

IT IS ORDERED that trial is continued to **Wednesday, September 1, 2010 at 8:30 a.m.**

LANCE S. WILSON, CLERK

By: /s/
Deputy Clerk